

## NFL lockout: Federal appeals court rules again for owners, as talks continue

By [Mark Maske](#), Published: July 8

A federal appeals court ruled Friday that the [NFL](#)'s lockout of its players can continue, as the two sides worked to reach an agreement that would end the sport's nearly four-month shutdown.

It did not appear the ruling would have a significant effect on the negotiations between the league and players, which continued in New York.

Shortly after the ruling was announced, the two sides issued a joint statement saying they were committed to resolving the labor impasse at the bargaining table.

"While we respect the court's decision, today's ruling does not change our mutual recognition that this matter must be resolved through negotiation," the statement said. "We are committed to our current discussions and reaching a fair agreement that will benefit all parties for years to come, and allow for a full 2011 season."

The players have been locked out since March 12 but [the two sides have made progress toward a deal](#) in hopes of reaching an agreement before the league would have to begin canceling games. The NFL has not set a firm deadline to preserve a full preseason but a deal would have to come soon for the Aug. 7 preseason opener to be salvaged.

The ruling was made by a three-judge panel of the U.S. Court of Appeals for the Eighth Circuit. It reverses a late-April decision by a federal judge to grant the players' request for an injunction that would have ended the lockout. The ruling by the appellate court upheld the league's contention that federal law, specifically the Norris-LaGuardia Act, prohibits a judge from issuing an injunction in a labor dispute.

"We conclude that the injunction did not conform to the provisions of the Norris-LaGuardia Act. . . and we therefore vacate the district court's order," the appeals court's ruling said.

The ruling was surprising only in its timing. Legal experts had said they expected the appeals court to rule in the league's favor, especially after it granted the stay of U.S. District Judge Susan Richard Nelson's injunction through a ruling on the league's appeal. But the June 3 hearing ended with the appeals court urging the league and players to resolve the dispute themselves, and legal experts had said they thought the court was likely to withhold a ruling while progress was being made in negotiations.

People not involved in the negotiations but familiar with them said late Thursday night that the league and players were close to a resolution on the core economic issues of their dispute, principally how to divide the sport's burgeoning revenue.

The two sides reconvened Friday at a Manhattan law firm. The meeting included NFL Commissioner Roger Goodell and DeMaurice Smith, the executive director of the NFL Players Association, along with groups of owners and players. It also included the mediator appointed by Nelson, Chief Magistrate Judge Arthur J. Boylan.

Those familiar with the status of the talks said they expected they would be unaffected by Friday's appeals court decision, given that both sides had expected the ruling to uphold the lockout. Those people spoke on the condition of anonymity because the negotiations are at a sensitive stage.

In addition, several people said, the players still have some leverage in negotiations because their antitrust lawsuit against the owners remains intact in the lower court.

The appeals court previously had issued two stays of the injunction granted by Nelson. Those stays kept Nelson's injunction on hold and enabled the NFL to maintain the lockout.

In oral arguments before the three appeals court judges in St. Louis on June 3, the players' side had said that because the players dissolved their union in March, they were entitled to protection under antitrust laws, making the lockout illegal. Attorneys for the players argued the owners no longer could be shielded from antitrust scrutiny because of a labor exemption.

The ruling Friday came by the same 2-1 vote by which the appeals court previously granted each of the two stays of Nelson's injunction. Two Republican-appointed judges, Steven M. Colloton and Duane Benton, again ruled to keep the lockout intact. Kermit E. Bye, a Democratic appointee, again dissented.

The ruling contained some uncertainty related to free agents and rookies. Because those players are not under contract to teams, it left open the possibility that a court could require the league to deal with those players — although it also seemed to leave open the possibility that rookies and free agents could be locked out by the league once they're signed to contracts.

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The ruling said that the consideration by Nelson's court "with respect to free agents and rookies undoubtedly was affected by its view that the entire lockout could be enjoined. Whether to enter an injunction requiring the league to deal with free agents and rookies, only to have these players locked out as soon as they enter into any new contract of employment, was not considered."

There also could be a ruling soon by U.S. District Judge David S. Doty on possible damages in a case involving the sport's television contracts. Doty ruled that the league violated the terms of a previous settlement agreement with the players.

The players, who maintained that the league structured the TV deals improperly to set up what amounted to a lockout fund for the owners, is seeking compensatory and punitive damages in the case totaling about \$2.5 billion.

The players also have asked the Minneapolis-based Doty to bar the league from receiving approximately \$4 billion in annual TV revenues if the lockout extends into the regular season. But any ruling on damages to the players by Doty could be appealed by the league to the same appellate court that just overturned Nelson's injunction.

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